

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

ROBERT I. HANFLING, Chapter 7 Trustee
of the Bankruptcy Estates of ATG, Inc. and
ATG Catalytics, LLC,

Plaintiff,

V.

EPSTEIN BECKER & GREEN, P.C.,

Defendant.

Civil Action No. 05-10077-RGS

**DEFENDANT'S MOTION FOR AN AWARD OF
ATTORNEYS' FEES AND EXPENSES UNDER 28 U.S.C. § 1927**

Defendant Epstein Becker & Green, P.C. (“EBG”) hereby moves, pursuant to 28 U.S.C. § 1927, for an award of attorneys’ fees and costs, payable by Jacobs Partners LLC (“Jacobs Partners”), counsel to plaintiff Robert I. Hanfling, Chapter 7 Trustee of the Bankruptcy Estates of ATG, Inc. and ATG Catalytics LLC (the “Trustee”).

Jacobs Partners has unreasonably and vexatiously multiplied the proceedings in this case. The action was ill-considered from the outset. Jacobs Partners would have recognized the fundamental flaws in the Trustee's original Complaint if it had engaged in any meaningful pre-filing investigation, including, at a minimum, reviewing documents in its client's own possession. When these legal and factual flaws became abundantly apparent during the first phase of discovery in this matter, Jacobs Partners sought to amend the Complaint to assert a new claim that it knew or should have known would do nothing to address the deficiencies in the original Complaint. Jacobs Partners' unreasonable and vexatious conduct continued when, after summary judgment was entered

for EBG, it sought reconsideration of a clear ruling with respect to the amended claims' lack of viability.

As sanctions for this litigation conduct, EBG is entitled to the attorneys' fees and costs it incurred in responding to the unnecessary Amended Complaint and opposing the frivolous motion for reconsideration.

EBG will, at the Court's request, submit proof of the attorneys' fees and costs it incurred in this manner.

WHEREFFORE, EBG requests that its Motion for an Award of Attorneys' Fees and Expenses under 28 U.S.C. § 1927 be allowed.

EPSTEIN BECKER & GREEN, P.C.

_____/s/ Paula M. Bagger_____
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Dated: February 1, 2007

CERTIFICATE OF SERVICE

I, Paula M. Bagger, hereby certify that service upon plaintiffs' counsel was effected through the Court's CM/ECF system this 1st day of February 2007.

_____/s/ Paula M. Bagger_____
Paula M. Bagger